

U.S. DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

3:24cv1115

Case No. _____

-----X
FRANK TUFANO

Plaintiff(s),

VERIFIED COMPLAINT

-against-

FENIX INTERNET LLC

Defendant(s).

**FILED
SCRANTON**

JUL 08 2024

PER _____

DEPUTY CLERK

- X
1. OnlyFans is an internet content subscription service based in London, United Kingdom. The service is used primarily by sex workers who produce pornography, but it also hosts the work of other content creators, such as physical fitness experts and musicians
 2. FENIX INTERNET LLC is the assumed operating LLC for the company to do business in the United States, of which the majority of their revenue comes from.
 3. Frank Tufano had interest in using the platform for a considerable income source but has faced discrimination and unfair treatment by being prohibited from using the platform.
 4. In February of 2023 Frank Tufano had his account terminated before he could use it for promotion of his own content.

5. To Frank Tufano's knowledge, an unknown user accessed his account and attempted to use it to promote themselves.
6. This violated the "Onlyfans Terms of Service," ultimately causing Frank Tufano to be permanently barred from the platform.
7. After repeated efforts to remediate and explain the situation with OnlyFans, they repeatedly refused to allow Frank Tufano to use the platform.
8. Not being able to use the platform since February of 2023 has caused Frank Tufano to face a considerable lost in potential income as many creators, around social media following, have made millions of dollars per year.
9. There are several other websites that allow creators to post such content however OnlyFans has such a large percentage of the market share with over 5.5 billion dollars in revenue that it would be a disservice to use any other platform.
10. It is safe to assume that OnlyFans is in a significant monopolistic position in the market and should face Federal or outside regulation in their business operations.
11. Frank Tufano believes there is a group or specific persons at OnlyFans that have a personal prejudice against him as the actions causing his account to be terminated were out of his control.

FIRST CLAIM FOR RELIEF
Title VII, Civil Rights Act of 1964

12. The law forbids sexual orientation and gender identity discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.

13. All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, in executive agencies as defined in section 105 of title 5 (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on race, color, religion, sex, or national origin.
14. The majority of OnlyFans revenue comes from it's 87% male audience, who is spending money to see predominantly female content creators.
15. It can be assumed that OnlyFans does not see as much value in it's male content creators because of the insignificant amount of revenue they bring in compared to the female content creators.
16. If OnlyFans does not think Frank Tufano would create a considerable source of income and value to their company based on his sex, they would have no issue prohibiting him from using the platform.

SECOND CLAIM FOR RELIEF
The Sherman Antitrust Act

17. Under the Sherman Act, agreements among competitors to fix prices or wages, rig bids, or allocate customers, workers, or markets, are criminal violations.

Other agreements such as exclusive contracts that reduce competition may also violate the Sherman Antitrust Act and are subject to civil enforcement.

18. It is publicly known there is a despairing difference between the top creators on Onlyfans, making many millions of dollars per month, and the majority of creators who are “barely scraping by,” making several hundred dollars per month if they are lucky.
19. By consolidating the bulk of their revenue into a small subset of creators, OnlyFans maintains their power and is able to ignore the needs of the majority of it’s users.
20. OnlyFans is able to continually discriminate against their creator base because they are in a position that suffers no significant monetary loss from poor business practices due to their monopolistic nature.

THIRD CLAIM FOR RELIEF
Refusal to Deal

21. In general, any business — even a monopolist — may choose its business partners. However, under certain circumstances, there may be limits on this freedom for a firm with market power. As courts attempt to define those limited situations when a firm with market power may violate antitrust law by refusing to do business with other firms, the focus is on how the refusal to deal helps the monopolist maintain its monopoly, or allows the monopolist to use its monopoly in one market to attempt to monopolize another market
22. Because OnlyFans has such a large share of the market userbase, it would only be fair to the content creators (sex workers) that OnlyFans is externally regulated

to conduct fair operations or is broken up to give users fair income options when participating in this nature of business.

FOURTH CLAIM FOR RELIEF
The Federal Trade Commission Act

23. bans "unfair methods of competition" and "unfair or deceptive acts or practices." The Supreme Court has said that all violations of the Sherman Act also violate the FTC Act. Thus, although the FTC does not technically enforce the Sherman Act, it can bring cases under the FTC Act against the same kinds of activities that violate the Sherman Act.
24. OnlyFans creates the illusion of a website where content creators can promote their persona. In reality, this is a very selective website where only a very small percentage of users are generating significant amounts of income.
25. The favoritism OnlyFans has towards these high income users, whether it be intentional regulation of the internal algorithm in favor of certain creators, secret business contracts unknown to the public, or personal employee bias, perhaps a combination of all of them, is clearly a violation of the Federal Trade Commission Act in the portrayal of their image.

JURISDICTION

26. This Court has subject matter jurisdiction pursuant to 28 U.S.C. par. 1332 because there is a complete diversity of citizenship between each plaintiff and Defendant and the amount in controversy exceeds \$75,000.
27. Frank Tufano's permanent residence and domicile is established in Carbondale, PA, at 25 Dundaff ST.

28. The known LLC contact for Onlyfans is FENIX INTERNET LLC, whose residence and domicile is in 501 Silverside RD, Wilmington, DE 19809

FIFTH CLAIM FOR RELIEF
Pre-Complaint Discovery 231 Pa. Code § 4003.8

29. A complete documentation of internal communications between OnlyFans agents in making the decision to prohibit him from using the platform from January of 2023 to present.
30. A sales overview showing gross income and percentage of revenue from male and female creators to determine the market size of OnlyFans and the likelihood of discrimination based on sex.

PRAYER FOR RELIEF

31. WHEREFORE, by reason of the acts and circumstances alleged herein, Frank Tufano seeks relief from this Court as follows:

- a. Judgment on each of the claims set forth above against FENIX INTERNET LLC, or the legitimate operating entity for OnlyFans in the domestic USA.
- b. An award of compensatory damages according to proof at trial, but in an amount no less than \$30,000 per month that Frank Tufano has been unable to use the OnlyFans Platform (\$510,000 as of July 2024) according to realistic projected income of an online content creator with substantial following.

Dated: July 8, 2024

By: /s/ Frank Tufano
Frank Tufano